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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,232

02/06/2004

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EXAMINER

SHAW, PELING ANDY

ART UNIT

PAPER NUMBER

2144

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,232	<b>Applicant(s)</b> QING ET AL.	
	<b>Examiner</b> PELING A. SHAW	<b>Art Unit</b> 2144	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Continued Examination under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/29/2008 has been entered. Claims 1-13 are amended. Claims 1-13 are currently pending.

2. Amendment received on 01/30/2008 was entered into records. Applicant's amendment to the specification was reviewed and accepted. Claims 1-2, 4-6 and 8-12 were amended. Claim 13 was new.

***Priority***

3. This application has claimed a priority # CHINA 03106929.0 on 02/26/2003. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. The filing date is 02/06/2004.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (US 20040165592 A1), hereinafter referred as Chen in view of Silverman (US 6731649 B1), hereinafter referred as Silverman.

- a. Regarding claim 1, Chen shows (claim 1) a method for providing service with guaranteed Quality of Service (QoS) in IP access networks, each of the IP access networks comprises an edge router connected to a backbone network, and an access network end device connected to subscribers (Figs 1 and 3, paragraph 3: guarantee application specific IP QoS via the combination of ATM switched virtual connections (SVCs) and permanent virtual connection (PVCs)), comprising: a. a service entity (paragraph 31: connection server 25) at network service control layer obtaining a calling subscriber address and a called subscriber address (paragraphs 40-41 and 43: routing packet, policy routing instruction includes source IP network address and destination IP network address) and QoS requirement for a service through analyzing a service request of the calling subscriber (paragraph 31: a subscriber transmits a connection setup request to the connection server; paragraph 32: calculate available bandwidth and perform CAC for ATU-R and DSLAM; paragraphs 35-36: CAC to

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determine if sufficient available bandwidth exists in ATU-Rs and DSLAMs and connection server sends SVC requests through a proxy signaling agent to edge switch of ATM network; paragraph 45: connection server establish two connection segments, one originating at each subscriber, to a common network to network interface meeting point; paragraph 56: connections server ensures that enough bandwidth exists for a connection request for DSLAM; paragraph 58: request for connection to its respective network service agent; paragraph 94: setup message carries QoS parameter, signaling message includes QoS requirement), then requesting resources to IP access network corresponding to the calling subscriber and the called subscriber, respectively (paragraph 35: connection server 25 determines bandwidth available in ATU-Rs and DSLAMs; paragraph 56: connection server 25 ensures and grants bandwidth); b. edge routers (paragraph 97: ATM switch) of corresponding to the calling subscriber and the called subscriber judging whether enough resources can be provided for this service according to current resource condition, if so, executing step c, otherwise rejecting the service request of the calling subscriber (paragraph 97: ATM switch determine if can satisfy the requirement of connection based on traffic descriptor; paragraph 106: policy imposed on each connection based on the traffic descriptor; paragraph 35: connection server 25 determines bandwidth available; paragraph 56: connection server 25 ensures and grants bandwidth; paragraph 100: check whether there are enough network resources to accommodate this connection; checks fail, a standard release message is returned); and c. if there is an upward traffic stream sent from one of the calling subscriber and

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the called subscriber to the corresponding IP access network for this service (paragraph 35: subscriber's ATU-R and related DSLAM up-links), the corresponding edge router informing the corresponding access network end device of the QoS requirement for the service (paragraphs 94-95: signaling includes QoS requirement, SETUP message to ATM switch and the QoS application sends a QoS connection setup message through the API to the ATU-R; paragraph 97: ATM switch determine if can satisfy the requirement of connection based on traffic descriptor; paragraph 98: indicate initiation of the requested connection at the QoS requirements and VPI/VCI used), and the corresponding access network end device processing the upward traffic stream according to the QoS requirement informed by the corresponding edge router (paragraph 39: traffic packets are transmitted from the source subscriber 10 over QoS connection; paragraph 106: policy imposed on each connection based on the traffic descriptor). Chen does not explicitly show if there is a downward traffic stream to be sent to one of the calling subscriber and the called subscriber from the corresponding IP access network for this service, the corresponding edge router setting priority in the corresponding IP access network for this service and forwarding the downward traffic stream to the corresponding subscriber according to the priority set by the corresponding edge router. However Chen does show (paragraph 43) traffic packet priority information carried in IP header; (paragraph 5) a DSL subscriber connected to ATM through point-to-point protocol over Ethernet (PPPoE); (paragraph 47) ATU-R 12 may functions like an Ethernet bridge with additional packet mapping capabilities and the switching is based on MAC addresses and mapping rules for

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- outgoing PVC with QoS; (paragraph 90) service category (e.g. CBR, VBR-rt, VBR-nrt, UBR); (paragraph 100) select a PVE with the lowest service category; and (paragraph 101) ATM switch indicate via DSLAM initiation of the requested connection.
- b. Silverman shows (column 7, lines 11-14) tagging ToS with high priority when going through IP network; and (column 10, line 65-column 11, line 4) Gigabit Ethernet switches and Terabit routes use 802.1p&q, ToS and UDP port number to mark and identify packet priority in an analogous art of ATM edge node switching equipment utilized IP-VPN function.
- c. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Chen's functions of interfacing ATM switch with source subscriber through an ATU-R in bridge mode, i.e. Ethernet connection, and DSLAM as per Figure 1 of Chen with Silverman's functions of tagging packet priority on a Gigabit Ethernet switch or Terabit route.
- d. The modification would have been obvious because one of ordinary skill in the art would have been motivated to explicitly use the packet priority tagging capability as per 802.1p&q shown by Silverman in the IP QoS connection over ATM connection as per Chen (Fig. 1) and Silverman (column 1, lines 39-51)'s teaching.
- e. Regarding claim 2, Chen shows wherein in step c, the edge router can transform service level into priority in the IP access network for the downward traffic streams and forward the downward traffic stream to the corresponding subscriber (paragraphs 90 and 97: levels of CAC based on service category, e.g. CBR, VBR-rt, VBR-nrt,

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UBR, select lowest service category and lowest bandwidth). Silverman shows wherein in step c, the edge router can classify the (downward traffic) stream first, after identifying the (downward) traffic streams, transform the identified traffic streams into priority in the IP access network and forward the (downward) traffic streams (column 7, lines 11-14: tagging ToS with high priority when going through IP network; column 10, line 65-column 11, line 4: Gigabit Ethernet switches and Terabit routes using 802.1p&q, ToS and UDP port number to mark and identify packet priority).

- f. Regarding claim 3, Chen shows wherein step c is executed after the edge router has informed the service entity at the network service control layer that the IP access network can provide enough resources for the service and has received confirmation from the service entity (paragraph 97: ATM switch determine if can satisfy the requirement of connection based on traffic descriptor; paragraph 106: policy imposed on each connection based on the traffic descriptor; paragraph 35: connection server 25 determines bandwidth available; paragraph 56: connection server 25 ensures and grants bandwidth; paragraph 100: check whether there are enough network resources to accommodate this connection; checks fail, a standard release message is returned).
- g. Regarding claim 4, Chen shows further comprising a step of the edge router obtaining at least topology structure of the IP access network and bandwidth resources of each interface of the IP access network through static configuration or dynamic management protocol (Figure 1: connection server 25 sits on the edge of Internet 20; paragraphs 54 and 56: connection server manages the complex topology of any

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DSLAM, e.g. the total bandwidth available on a DSLAM trunk port (interface), pre-provisioned PVCs; paragraphs 40 and 43: routing packets, policy routing instruction includes protocol ID; paragraph 90: ATM switch 15 stores the following information in relation to each Extended Virtual UNI: a service-active identifier, which is set upon subscription to the service; a VPI/VCI range, identifying the VP and the range of contiguous VCs within the VP; a maximum equivalent bandwidth and an available bandwidth; and information regarding the PVCs pre-configured in the DSLAM 14; see also paragraph 33 of applicant's specification).

- h. Regarding claim 5, Chen shows after the access network end device receives the QoS requirement for the service from the corresponding edge router in step c, the method further comprising: setting items of a stream classification table according to parameters for identifying the upward traffic stream contained in the QoS requirement (paragraph 37: routing tables, routing entries; paragraph 43: type of service; paragraph 90: PVC information include QoS parameters); classifying the upward traffic stream sent from one of the calling subscriber and the called subscriber (paragraphs 94-95: signaling includes QoS requirement, SETUP message to ATM switch); and managing bandwidth according to bandwidth parameters for the upward traffic streams when matched with the items of the stream classification table, and processing the upward traffic stream when not matched as an upward traffic stream without guaranteed QoS (paragraph 43: best effort; paragraph 39: traffic packets are transmitted from the source subscriber 10 over QoS connection; paragraph 97: ATM switch determine if can satisfy the requirement of connection based on traffic

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- descriptor; paragraph 106: policy imposed on each connection based on the traffic descriptor).
- i. Regarding claim 6, Chen shows after wherein the step c comprises: setting the downward traffic streams with high priority and then forwarding the downward traffic stream when the access network end device is an Ethernet (paragraph 43: traffic packet priority in IP header; paragraph 47: Ethernet bridge with packet mapping capabilities) or IP Digital Subscriber Line Access Multiplexer (DSLAM) (paragraph 54: priority bandwidth on the DSLAM up-link ports); and sending the downward traffic stream to Permanent Virtual Circuit (PVC) with guaranteed QoS for further forwarding when the access network end device is an ATM DSLAM (paragraph 3: guarantee application specific IP QoS via the combination of ATM switched virtual connections (SVCs) and permanent virtual connection (PVCs)).
  - j. Regarding claim 7, Chen shows wherein parameters for identifying the upward traffic stream can be a four-element group, a five-element group or a seven-element group (paragraph 43: policy routing instruction syntax includes source IP network address, source network mask, destination IP network address, destination network mask, IP protocol ID, type of service (TOS), source port number, destination port number, gateway IP address, interface IP address, metric; see also paragraph 37 of applicant's specification).
  - k. Regarding claim 8, Chen shows further comprising: before receiving the QoS requirement from the edge router of the IP access network for the upward traffic stream, the access network end device processing the upward traffic stream sent from

one of the calling subscriber and the called subscriber as an upward traffic stream without guaranteed QoS (paragraph 39: traffic packets are transmitted from the source subscriber 10 over either the new QoS connection or the default route to the ISP, based upon whether or not the packet originates from an application associated with the new QoS connection).

- l. Regarding claim 9, Chen shows wherein network devices between the edge router and the access network end device of the corresponding IP access network forward the downward traffic stream according to the priority of the downward traffic stream (paragraph 88: ATU-R requires policy-based routing, enabling packets to be forwarded on different VCs to conform to the SVC parameters).
- m. Regarding claim 10 dependent on claim 5, Chen shows further comprising: after the calling subscriber terminates the service, the edge router sending a QoS release command (paragraph 104: sends a standard release message to the ATM switch 15, the ATM switch 15 performs standard SVC release actions and adds bandwidth back to the available bandwidth) to the access network end device, and the access network device deleting corresponding items of the stream classification table according to the QoS release command (paragraph 104: deletes the corresponding policy routing entry in the routing table).
- n. Regarding claim 11 dependent on claim 6, Chen shows further comprising: after the calling subscriber terminates the service, the edge router sending a QoS release command (paragraph 104: sends a standard release message to the ATM switch 15, the ATM switch 15 performs standard SVC release actions and adds bandwidth back

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- to the available bandwidth) to the access network end device, and the access network end device deleting corresponding items of the stream classification table according to the QoS release command (paragraph 104: deletes the corresponding policy routing entry in the routing table).
- o. Regarding claim 12 dependent on claim 7, Chen shows further comprising: after the calling subscriber terminates the service, the edge router sending a QoS release command (paragraph 104: sends a standard release message to the ATM switch 15, the ATM switch 15 performs standard SVC release actions and adds bandwidth back to the available bandwidth) to the access network end device and the access network device deleting corresponding items of the stream classification table according to QoS release command (paragraph 104: deletes the corresponding policy routing entry in the routing table).
  - p. Regarding claim 13 dependent on claim 5, Chen shows further wherein managing bandwidth according to bandwidth parameters comprises: performing bandwidth limitation, by the access network end device, for the upward traffic stream matched with the items of the stream classification table according to the bandwidth parameters (paragraph 35: the connection server performs a call admission control step to determine if sufficient available bandwidth exists in the ATU-Rs and DSLAM to accommodate the connection request).

Together Chen and Silverman disclosed all limitations of claims 1-13. Claims 1-13 are rejected under 35 U.S.C. 103(a).

***Response to Arguments***

5. Applicant's arguments filed on 07/29/2008 have been fully considered, but they are not persuasive.

- a. Applicant has argued the limitation of "obtaining a calling subscriber address ..." (last paragraph on page 7 through 3<sup>rd</sup> paragraph on page 8). Examiner has reviewed the limitation in light of applicant's original specification and claim language. Examiner has further reviewed claim rejections and applied prior art as per Office Action dated 05/01/2008. Chen has shown the argued limitation within the scope of whole claim. The limitation does not specify how and when to obtain. As one skill in the art ATM SVC call processing can easily read Fig. 5 and see the corresponding ATM standard based procedures, functions and messages involved. Chen does teach and suggest the limitation per cited references and related sections from Chen.
- b. Applicant has argued the limitation of "if there is an upward traffic ..." (4<sup>th</sup> paragraph on page 8 to 2<sup>nd</sup> paragraph on page 9) Chen has shown the end to end call setup from a source subscriber to a destination subscriber. The upward traffic is referring to the traffic from the subscriber to the network, i.e. from IP network to ATM network as per applicant's claimed invention and shown by Chen, e.g. Fig. 1 and 3. The SVC call set up describing using ATM standard based procedure of exchanging SETUP, CALL PROCEEDING, CONNECT, CONNECT and ACKNOWLEDGE messages following legacy ISDN, i.e. broadband ISDN, call processing procedures and messages. Chen has shown this IP into ATM network QoS interface substantially in the same fashion of ATM standard as well as applicant's claimed invention.

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- c. Applicant similar arguments on “downward traffic” etc. as per 3<sup>rd</sup> paragraph on page 9 through 3<sup>rd</sup> paragraph on page 10) are reviewed in light of applicant’s original specification and claim set. Examiner has carefully reviewed the current amended claim language in light of applicant’s specification. Examiner has reviewed claim rejections and applied prior art as per Office Action dated 05/01/2008. Considering the legacy ATM SVC, QoS and interface with IP network, Chen does teach or suggest the limitation of “downward traffic” and “bandwidth management” as cited references and related sections.
- d. It is examiner’s position that applicant does not draw substantially claim limitation different one skill in the art of ATM from the ATM standard’s teach or suggest as well as presented by Chen and Silverman. Applicant is advised to look into applicant’s original specification and claim set to draw a further amendment to differentiate from Chen and Silverman to further the prosecution.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peling A. Shaw whose telephone number is (571) 272-7968. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Peling A Shaw/  
Examiner, Art Unit 2144